



City of Seattle

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Gregory J. Nickels, Mayor  
**Department of Planning and Development**  
D.M. Sugimura, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR  
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

**Application Number:** 2209019

**Applicant Name:** Terry Beals for Central Puget Sound Regional Transit Authority (“Sound Transit”)

**Address of Proposal:** 7908 Martin Luther King Jr. Way S.

**SUMMARY OF PROPOSED ACTION**

Master Use Permit to establish the use as a temporary staging area for future construction of a light rail transit facility. The project includes placement of a construction trailer; parking for six vehicles; and outdoor storage of construction materials. The project includes demolition of the existing structures on-site. An Environmental Impact Statement (EIS) was prepared by Sound Transit (issued November 1999).

The following approvals are required:

**Temporary Use Permit** - Seattle Municipal Code (SMC) Section 23.42.040.

**SEPA - for conditioning only** – Seattle Municipal Code (SMC) Chapter 25.05.

**SEPA DETERMINATION:** ☐ Exempt ☐ DNS ☐ MDNS ☒ EIS\*  
☐ DNS with conditions  
☐ DNS involving non-exempt grading, or demolition or another agency with jurisdiction.

**BACKGROUND DATA**

Site Location: The subject property is located in South Seattle on two parcels situated at the southeast corner of Martin Luther King Jr. Way S. and S. Kenyon Street. The site is currently addressed as 4203 S.

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\* Final Environmental Impact Statement issued by Central Puget Sound Regional Transit Authority in November 1999. An addendum was issued November 16, 2001.

Kenyon St. and 7908 Martin Luther King Jr. Way S. S. Kenyon Street at this location is a paved residential street developed with curbs, gutters, and sidewalks. Martin Luther King Jr. Way S. at this location is a four-lane major arterial with curbs, gutters, and sidewalks along both sides of the street.

Site Description:

The 11,546 sf site is developed with two duplexes and a small garage on the northerly parcel. The site is relatively level ground with an approximate five-foot elevation change along the property boundary abutting street rights-of-way.

Zoning:

The property is zoned Lowrise 2 Multi-family Residential (L-2). The site does not contain any mapped or observed Environmentally Critical Areas (ECAs).

Zoning in Vicinity:

Zoning in the vicinity is primarily L-2. Parcels to the immediate west, north, and east are all zoned L-2. The adjacent properties to the south fronting the east side of Martin Luther King Jr. Way S. are zoned Single Family (SF 5000) Residential .

Uses in Vicinity:

The area is developed with mix of apartments, duplexes, and single family residences.

Public Comments

The public comment period ended March 12, 2003. The Department received no comments concerning the proposal.

**PROJECT DESCRIPTION**

The subject proposal is an element of Sound Transit's Central Link light rail C730/C740 segment along Martin Luther King Jr. Way South. The C730/C740 contract is a component of Sound Transit's Initial Segment that would ultimately connect downtown Seattle with the City of Tukwila. Under this application, Sound Transit proposes to (1) demolish the existing two duplexes on the site and (2) use the property as a temporary construction "staging" area during the construction of the light rail line. Construction activities include the installation of a contractor's mobile office trailer; parking for six vehicles, and areas for outdoor storage of related equipment. The entire area would have security fencing. The proposal includes grading of approximately 143 cubic yards of excavated material and approximately 32 cubic yards of fill material, for a total grading quantity of approximately 175 cubic yards. The site improvements are intended to be in place for only the duration of the construction of the light rail system, which is scheduled for up to 34 months.

When construction is complete, construction materials, trailer, and security fencing would be removed from the site. The property would be restored to its natural state and left in a "broom clean" condition. A Site Restoration Plan is proposed to be developed by the applicant's contractor and implemented within 180 days of vacating the site. Also, Sound Transit proposes to reconstruct the sidewalk on the north and west boundaries of the site along Martin Luther King Jr. Way S. and S. Kenyon Street.

### **ANALYSIS - TEMPORARY USE**

Pursuant to SMC 23.42.040, the Director may “grant, deny or condition applications for temporary use authorization for uses not otherwise permitted or not meeting development standards in a zone, which are in keeping with the spirit and purpose of the Land Use Code.” Furthermore, SMC 23.42.040(E) states that the Director may authorize a temporary use that supports the construction of a light rail transit facility provided that the requested use meet a specified set of criteria. Based on the information provided by the applicant and review of the proposal by the Land Use Planner, the following findings are made with respect to the criteria cited below:

1. *“The alignment, station locations, and maintenance base location of the light rail transit system has been approved by the City Council by ordinance or resolution;”*

The City Council has passed resolutions and ordinances approving the alignment, station locations, and maintenance bases for Sound Transit’s proposed light rail system. (For additional information, refer to Resolution 30128 and Ordinances 119904, 119974, and 119975.) The temporary use for a construction staging area would accommodate Sound Transit’s proposal to construct the light rail tracks and other supporting systems along this portion of Martin Luther King Jr. Way S. The proposed staging area is consistent with the resolution and ordinances passed by the City Council.

2. *“The temporary use or structure is authorized for only so long as is necessary to support construction of the light rail transit system;”*

Sound Transit anticipates that the staging area would be required for approximately 34 months during construction, which is currently estimated to be from March, 2004 through December 2006.

3. *“The applicant must submit plans for the establishment of temporary construction uses and facilities to the Director for approval. When reviewing the application, the Director shall consider the duration and severity of impacts, and the number and special needs of people and businesses exposed, such as frail, elderly, and special needs residents. Following review of proposed plans and measures to mitigate impacts of light rail transit facility construction, and prior to the issuance of any permits granting permission to establish construction facilities and uses, the Director may impose reasonable conditions to reduce construction impacts on surrounding businesses and residences, including but not limited to the following:”*

- a. *“Noise impacts will be governed by the Noise Control Ordinance (SMC Chapter 25.08) and off-site impacts associated with grading and drainage will be governed by the Stormwater, Grading and Drainage Ordinance (SMC Chapters 22.800 through 22.808).”*

The construction and operation of the temporary staging area meets the minimum requirements of the Noise Control Ordinance and the Stormwater, Grading and Drainage Ordinance. However, construction activities to establish the staging area would generate short-term noise, and the applicant has submitted to DPD a Construction Noise Mitigation Plan, which is

discussed in the SEPA analysis section below and is on file with the Master Use Permit application. Also, the applicant will be required to submit a copy of any necessary demolition permits from the Puget Sound Clean Air Agency (PSCAA), who has authority for mitigating any air quality impacts associated with the proposal.

- b. *“Light. To the extent feasible, light should be shielded and directed away from adjoining properties.”*

The applicant has indicated that lighting will be directed inward to the site and have hoods around the lamps to prevent unintentional glare.

- c. *“Best Management Practices. Construction activities on the site must comply with Director's Rule #16-2000, Best Management Practices for Construction Erosion and Sedimentation Control Plans.”*

The construction work for the proposal includes two, 22-foot wide curb cuts to be located on each street right-of way. The curb cuts must comply with the City of Seattle, Standard Plan for a Type 430 Driveway. Grading activity will also comply with the above mentioned Director's Rule per building permit approval.

- d. *“Parking and Traffic. Measures addressing parking and traffic impacts associated with truck haul routes, truck loading and off-loading facilities, parking supply displaced by construction activity, and resulting from temporary construction-worker parking, including measures to reduce demand for parking by construction employees must be included.”*

Sound Transit has developed contractor specifications that among other provisions, require their contractors to take specific measures to reduce potential impacts associated with temporary construction-worker parking. Special Provision SP-24 requires the contractor to procure parking for all of its employees and subcontractors in accordance with the prescribed Labor Compliance Manual and, if necessary, provide worker transportation to all work sites. SP-24 further prohibits employees of the contractor or its subcontractors from parking anywhere other than the contractor-furnished parking areas and may not impair the existing community parking and traffic conditions

- e. *“Local Businesses. The applicant must address measures to limit disruption of local business, including pedestrian and/or auto access to business, loss of customer activity, or other impacts due to protracted construction activity.”*

No impacts to local businesses are anticipated with this proposal.

- f. *“Security. The applicant must address site security and undertake measures to ensure the site is secure at all times and to limit trespassing or the attraction of illegal activity to the surrounding neighborhood.”*

Security would be maintained at the construction site. Sound Transit's, Special Provision SP-14, requires the contractor to prepare a comprehensive security plan detailing measures that will be taken to secure all staging and construction sites from unauthorized entrance. This plan will

include, as appropriate, provisions for full perimeter fencing of staging areas, and the provision of security lighting.

- g. *“Site/Design. The construction site should be designed in a manner that minimizes pedestrian/vehicle conflicts and does not unnecessarily impede pedestrian mobility around the site and through adjoining neighborhoods. Measures should also be undertaken to ensure appropriate screening of materials storage and other construction activities from surrounding streets and properties.”*

Public safety and convenience provisions are incorporated into the proposal. Special Provision SP-15 requires the contractor to conduct its work with due regard for the health, welfare, mobility, safety, and convenience of the public. This provision also prohibits the contractor from obstructing pedestrian traffic, parking spaces, or vehicular or pedestrian visibility without the provision of appropriate traffic control measures. A Seattle Department of Transportation (SDOT) Truck Transportation and Haul Route Plan will be used and temporary traffic control measures will be required when work is conducted within the public way

- h. *“Public Information. Actions should be taken that will inform surrounding residents and businesses of construction activities taking place and their anticipated duration, including a twenty-four (24) hour phone number to seek additional information or to report problems.”*

Sound Transit has indicated that the project would include the implementation of a neighborhood construction plan in order to facilitate management of community issues and mitigation of construction impacts. Outreach efforts could include public meetings, construction advisories, newsletters, and other community programs. In addition, as described above, the project contractor would be required to coordinate work with adjacent property owners and participate and assist in Sound Transit community outreach efforts. As part of this effort, the contractor must designate an individual to work with Sound Transit as the contractor’s representative responsible for community issues, reporting emergencies, and communicating timely construction information for public release. This person will be “on-call” 24-hours a day to address community concerns. Finally, information signs would be posted on the site and a 24-hour phone number provided.

- i. *“Temporary structures must be constructed to withstand inclement weather conditions.”*

The construction trailer to be installed at the staging area site would be constructed to withstand inclement weather conditions.

- j. *“Vibration. The applicant must consider measures to mitigate vibration impacts on surrounding residents and businesses.”*

Sound Transit’s contractor would be required to conduct construction activities and use construction methods to help minimize vibration levels. Noise reduction measures have been incorporated to reduce potential vibration.

4. *“Site Restoration.”*

- a. *“The applicant must also agree, in writing, to submit a restoration plan to the Director for restoring areas occupied by temporary construction activities, uses or structures.”*
- b. *“The restoration plan must be submitted and approved prior to the applicant vacating the construction site and it must include proposals for cleaning, clearing, removing construction debris, grading, remediation of landscaping, and restoration of grade and drainage.”*
- c. *“Site restoration must generally be accomplished within one hundred eighty (180) days of cessation of use of the site for construction uses and activities, unless otherwise agreed to between the applicant and the Director.”*
- d. *“The Director will approve plans for site restoration in accordance with mitigation plans authorized under this section.”*

The applicant will be required to remove the temporary fence and curbcut within 180 days of cessation of the site for temporary parking and submit a restoration plan prior to issuance of associated construction permits.

5. *“A master use permit for a temporary structure or use that supports the construction of a light rail transit facility shall not be issued until the Director has received satisfactory evidence that the applicant has obtained sufficient funding (which might include a Full Funding Agreement with a federal agency) to complete the work described in the master use permit application.”*

The City’s Sound Transit Program Manager with the Seattle Department of Transportation (SDOT) reviewed the Financial Capacity Statement submitted by Sound Transit for the proposal. On June 27, 2003, the Program Manager confirmed that the Financial Capacity Statement meets applicable code criteria.

**DECISION – TEMPORARY USE**

The temporary use application request is **CONDITIONALLY GRANTED** subject to the conditions noted at the end of this report.

**ANALYSIS - SEPA**

Central Puget Sound Regional Transit Authority (Sound Transit) as lead agency has disclosed the environmental impacts of the proposed light rail stations (including the Othello station and its associated plaza) in a Final Environmental Impact Statement (FEIS) issued in November of 1999. An addendum to the Final EIS for the Initial Segment was issued on November 16, 2001, which generally evaluated a reduced rail alignment (from 21 miles to an initial 14 mile segment). The Director hereby incorporates by reference the FEIS and the Addendum to the FEIS. The addendum concludes that there has been no substantial change in impacts from those identified

in the foregoing EIS materials. The information in the EIS, supplemental information provided by the applicant (plans, further project descriptions), and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665) establishes the relationship among codes, policies, and environmental review. Specific policies for specific elements of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states in part: *"where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation"* (subject to some limitations).

Under certain limitations/circumstances (SMC 25.05.665 D 1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is cited below.

### Short-term Impacts

The following temporary or construction-related impacts are expected:

- decreased air quality due to suspended particulates from demolition and grading activities and hydrocarbon emissions from construction vehicles and equipment;
- potential soil erosion and potential disturbance to subsurface soils during grading, excavation, and general site work;
- increased traffic and demand for parking from construction equipment and personnel;
- conflicts with normal pedestrian and vehicular movement adjacent to the site; and
- increased noise.

Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically, these codes and ordinances are: Stormwater, Grading and Drainage Control Code (grading, site excavation and soil erosion); Street Use Ordinance (watering streets to suppress dust, removal of debris, and obstruction of the pedestrian right-of-way); the Building Code (construction measures in general); and the Noise Ordinance (construction noise). Compliance with these applicable codes and ordinances will reduce or eliminate most of the short-term impacts to the environment. Other impacts may not be adequately mitigated by existing ordinances, as discussed below.

### Air Quality

The Puget Sound Clean Air Agency (PSCAA) regulations require control of fugitive dust to protect air quality. PSCAA, the Department of Labor and Industry, and the Environmental Protection Agency (EPA) regulations provide for the safe removal and disposal of asbestos that may be encountered during the demolition of the site's five existing structures. However, no permit process exists to ensure that PSCAA has been notified of the proposed building demolition and that asbestos has been removed from the site. Therefore, a condition shall be added requiring the applicant to submit to DPD a copy of the PSCAA demolition permit prior to issuance of the construction permit. This condition is imposed pursuant to SEPA authority to mitigate air quality, construction and environmental health impacts, SMC 25.05.675 A, B, and F.

Compliance with PSCAA regulations would mitigate any other potential adverse short term impacts to air associated with demolition and installation of equipment facilities.

#### Grading - Earth/Soils

Any additional information required to verify conformance with applicable ordinances and codes (The Stormwater, Grading and Drainage Control Code, DR 3-93, and 3-94) would be required prior to the issuance of demolition permits and any required construction permits for the proposal. The Stormwater, Grading and Drainage Control Code requires preparation of a soils report to evaluate the site conditions and provide recommendations for safe construction on sites where grading will involve cuts or fills of greater than three feet in height or grading greater than 100 cubic yards of material. The current proposal involves cuts possibly greater than five feet in height and grading of more than 175 cubic yards of material.

The Stormwater, Grading and Drainage Control Code provides extensive conditioning authority and prescriptive construction methodology to assure safe construction techniques are used; therefore, no additional conditioning is warranted pursuant to SEPA policies.

#### Traffic and Parking

Construction traffic would only minimally increase congestion in the area, and the area has adequate street access to accommodate any increased traffic. Parking for construction personnel would be available on the subject site and off site per Sound Transit's contractor specifications.

Therefore, no further mitigation for traffic and parking related impacts during construction is warranted pursuant to SEPA policies.

#### Noise

Demolition and other construction activities would generate short-term noise. The applicant proposes to implement a Construction Noise Mitigation Plan. This plan requires that Sound Transit and its contractor comply with the City's noise control ordinance (SMC Chapter 25.08). In addition, the plan requires that Sound Transit work with its contractor, in advance of construction, to plan the construction work in a manner that minimizes potential noise impacts on the neighbors. Sound Transit has a community outreach program to keep the adjacent communities informed throughout construction. The outreach will include updates at community organization meetings, written construction updates, regular door-to-door visits with residents, and other similar efforts. A 24-hour construction hotline will be established, and a record will be kept of all noise complaints. When a complaint is received, Sound Transit will use every reasonable effort to resolve it to the satisfaction of the complainant. The project should be conditioned to require that Sound Transit submit to DPD upon request a list of the noise complaints received during construction of the temporary staging area and Sound Transit's response to each complaint. DPD will review the list to verify that Sound Transit is complying with the noise mitigation plan and that reasonable measures are taken to mitigate demolition and construction noise.



### Long-term Impacts

No long-term or use-related impacts are anticipated since the proposal is a temporary use. The site would be left clean and restored to a "natural" state upon completion of construction activities suitable for future development.

### **CONCLUSION -SEPA**

Applicable conditions of approval together with codes and development regulations applicable to this proposed project, provide sufficient mitigation for most impacts identified in the adopted environmental documents. However, additional conditioning to mitigate short-term noise impacts is warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

The DEIS and FEIS together with associated appendices and studies; the master use permit plans submitted on the project; and responses to requests for information all comprise DPD's public record. Conditions imposed pursuant to SEPA assume installation of mitigating devices, structures and measures noted in the above analysis. Pursuant to SMC 25.05.600.D.1, DPD relies on Sound Transit's FEIS in conditioning project approval.

### **DECISION - SEPA**

Environmental impacts for the proposal were identified and analyzed in the Final Environmental Impact Statement issued by Sound Transit. DPD has the authority to mitigate impact pursuant to the city's SEPA practices. Therefore, the proposal is APPROVED subject to the conditions/mitigating measures noted at the conclusion of this report.

### **CONDITIONS – TEMPORARY USE**

None.

### **CONDITIONS - SEPA**

*The applicant (Sound Transit) shall:*

#### Prior to Issuance of Construction Permit

1. The owner(s) and/or responsible party(s) shall submit a copy to DPD of any required PSCAA Demolition Permit(s).

#### During Construction

2. The applicant shall comply with the Construction Noise Mitigation Plan submitted to DPD, a copy of which is in the Master Use Permit file. The applicant shall submit to DPD upon request a list of the noise complaints received during construction of the temporary staging area and Sound Transit's response to each complaint. The applicant shall mail the list to the attention of the undersigned DPD planner. DPD will review the list to verify that Sound

Transit is complying with the noise mitigation plan and that reasonable measures are taken to mitigate demolition and construction noise.

For the Life of the Project

3. Comply with all conditions and mitigating measures listed herein and described in the adopted FEIS for the proposal to the satisfaction of the City. For conditions which specify approval by a particular agency of the City or a State or Federal agency, that approval will constitute satisfactory compliance. Unless otherwise noted, DPD shall determine the issue of satisfactory compliance with conditions imposed under City authority.

Signature: (signature on file) Date: November 24, 2003

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Department of Construction and Land Use  
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